

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

THOMAS ELTON McDONNEL,

*Petitioner,*

v.

WILLIAM STEPHENS,

*Respondent.*

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CIVIL ACTION No. H-16-0843

**ORDER TO ANSWER**

State inmate Thomas Elton McDonnel filed a *pro se* section 2254 habeas petition challenging his conviction. Preliminary examination of the petition indicates that an answer is needed. Under section 2241, *et seq.*, and the Rules Governing Section 2254 Cases in the United States District Courts, the Court ORDERS as follows.

1. Petitioner is ORDERED to pay the \$5.00 filing fee, or submit an application to proceed *in forma pauperis* with a certified copy of his current inmate trust account statement, within thirty days from date of this order. Petitioner's failure to comply timely with this order will result in dismissal of this lawsuit for failure to pay the filing fee.

2. The Clerk shall serve, by regular mail, a copy of the petition (Docket Entry No. 1), the memorandum in support (Docket Entry No. 2), and this order upon the respondent, William Stephens, P.O. Box 99, Huntsville, Texas 77342-0099, and upon the Attorney General of the State of Texas, Gregory Abbott, Attention: Edward L. Marshall, Supervisor,

Post-Conviction Litigation Division (Mail Code 066), P.O. Box 12548, Capitol Station, Austin, Texas 78711-2548.

3. Respondent shall file an answer to the petition, in compliance with Rule 5 of the Rules Governing Section 2254 Cases in the United States District Courts, no later than JUNE 1, 2016. Respondent shall forward a copy of same to petitioner.

4. If appropriate, respondent's answer shall contain: (a) a statement of the authority by which petitioner is held; (b) the offense(s) and sentence(s); (c) a specific response to each factual allegation and legal contention with applicable authority; and (d) a statement as to whether petitioner has exhausted all state remedies, either by appeal or collateral attack.


5. Moreover, if appropriate, the copy of respondent's answer filed with the Court shall be accompanied by the following documents relating to the conviction(s) of the state court which petitioner attacks: (a) copies of the indictment(s), judgment(s), sentences(s), or order(s) pursuant to which petitioner is being held; (b) if petitioner appealed from the judgment or conviction or from an adverse judgment or order in a post-conviction proceeding, a copy of petitioner's brief on appeal and a copy of the judgment(s) on appeal, the statement of facts on appeal, the opinion(s) of the appellate court(s) or a reference to where it or they may be found in the reports; (c) if petitioner has collaterally attacked the judgment or conviction or order in a post-conviction proceeding, a copy of petitioner's application for collateral relief, including all answers and judgments rendered as a result; and

(d) a copy of only such portions of the transcripts respondent considers relevant for the proper resolution of this action.

6. Unless otherwise instructed by the Court, each party shall serve the other party, or counsel, with a copy of every pleading, letter, or other document submitted for consideration by the Court. This provision does not require the State to provide petitioner a free copy of the state court record. Every pleading or other document received by the Clerk which fails to include the certificate of service will be stricken from the record. Failure to mail a copy of the pleadings as certified by the certificate will subject the party to sanctions by the Court. There will be no communications with the U.S. District Judge or Magistrate Judge.

7. If respondent elects to answer by filing a dispositive motion (*i.e.*, a motion to dismiss or summary judgment), or otherwise files a dispositive motion, petitioner shall file a response within THIRTY DAYS of the date reflected on the certificate of service. If petitioner fails to comply timely with this order, the Court may dismiss this case for want of prosecution. Petitioner shall inform this Court and respondent at all times of his current mailing address.

Signed at Houston, Texas on April 4, 2016.

  
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Gray H. Miller  
United States District Judge